



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
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http://www.blm.gov/ut/st/en/fo/cedar_city.html

In Reply Refer To:

4710.3/4710.4/ 4720 (UTC010)

DECISION RECORD (DR)

for

Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan

Cedar City Field Office

DOI-BLM-UT-C010-2012-0018-EA

INTRODUCTION

The Bureau of Land Management (BLM) Cedar City Field Office (CCFO) has prepared a Herd Management Area Plan (HMAP) for the Frisco Herd Management Area (HMA) and to gather and remove excess wild horses from within and outside the Frisco Wild Horse HMA on or after November 2012.

The Frisco HMA is approximately 60,367 acres and is located, approximately 15 miles northwest of Milford, Utah (Map 1). Of the 60,367 acres in the HMA approximately 48,852 of these are public land acres, 5,745 of these acres are state and 5,770 acres are private land acres. The HMA ranges from 5,600 in the valleys to 9,500 feet in elevation at the top of Frisco Peak. The wild horses primarily use the lower benches in the winter and the higher elevations in the summer.

The Frisco HMAP will establish short and long term management and monitoring objectives for the wild horse herd and their habitat. These objectives will guide management of the Frisco HMA wild horses until updates and revisions of the plan occur when policies, regulations, laws or LUP change significantly. The gather and removal will occur to meet population management and HMAP objectives.

Under any of the HMAP alternatives excess wild horses are present within and outside the boundaries of the Frisco HMA. The Proposed Action's capture, removal, treatment and release plan is a pilot management alternative that calls for a phased-in approach to reach AML over a six to ten year period by gradually removing excess animals, implementing fertility control, and adjusting sex ratios. The gather is being done in an attempt to slow population growth by treating captured mares with fertility control vaccine PZP-22 (Porcine Zona Pellucida). It is also anticipated that once AML is reached that this approach will help maintain population size within the Appropriate Management Level (AML), and extend the time between gather operations. It will also reduce the number of excess wild horses that will need to be removed.

The Bureau of Land Management (BLM) is proposing to capture approximately 166 head, treat approximately 31 head of mares with PZP, return to the HMA approximately 62 head at 60/40 male to female ratio (including the treated the treated mares) and remove approximately 104 head of wild horses from the Frisco HMA beginning on or after November 15, 2012. Then conduct one (1) to three (3)

additional capture, treatment, and removal operations approximately every two years over the next six (6) to ten (10) years based on population levels. The additional gather operations that will occur after 2013 will capture, treat and release approximately 120-400 head wild horses. Approximately 25-75 mares will be treated with PZP, with 120-400 wild horses removed from the range. These estimated numbers all depend on when the gather operations occur, the effectiveness of the PZP, the population of horse in the HMA during the additional operations, and growth rates. Once the wild horse population of the Frisco HMA is within the AML range of 30-60 head additional gathers will require new gather plans.

The proposed action's HMAP will adjust the Appropriate Management Level (AML) from 12-60 head to 30-60 head. The current estimated population of wild horses within the HMA is estimated at 221 head. This number is based on an aerial population inventory conducted April 2012 using direct count from the Mark-Resight method.

BLM has prepared an Environmental Assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal and fertility control measures. Refer to **DOI-BLM-UT-C010-2012-0018-EA**.

DECISION

It is my decision to implement the Proposed Action (Alternative 2) as described in the final Environmental Assessment for the Frisco HMA (**DOI-BLM-UT-C010-2012-0018-EA**). This decision is effective immediately pursuant to 43 CFR 4770.3(c).

RATIONALE

Upon analyzing the impacts of the Proposed Action (Alternative 2) and following issuance of the EA for public review, I have determined that implementing the Proposed Action will not have a significant impact to the human environment and that an environmental impact statement is not required as set forth in the attached Finding of No Significant Impact.

The Proposed Action will implement a Herd Management Area Plan (HMAP) consistent with the authority provided in 43 CFR 4700 and the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA). The HMAP is needed to manage wild horses within the Frisco HMA to maintain the herd as a self-sustaining population of healthy animals in balance with other uses and the productive capacity of their habitat. Updates and revisions of the Frisco HMAP will occur with additional public input when policies, regulations, laws or LUP change significantly.

While the No Action HMAP Alternative meets the Purpose and Need in part, it would result in more excess wild horses being gathered and removed over the next 10-20 year period, resulting in greater disturbance to individual horses and the herd than with the Proposed Action (Alternative 2). The use of fertility control to mares and adjustment in sex ratio to 60/40 male to female should reduce the population growth rate on the HMA.

The Proposed Action HMAP includes management direction to monitor and maintain wild horse health on the Frisco HMA. The genetic health will be monitored through genetic testing. The introduction of 1-3 horses from other HMAs with similar characteristics will maintain the genetic diversity in this small herd. Objectives including the maintenance and development of water and vegetative projects within the HMA will help to improve wild horse habitat. The improvement to water sources, vegetative and riparian development protection, and monitoring will assure that water and forage is available for wild horse populations within HMA even during times of drought or severe weather.

Under the Proposed Action the AML will be adjusted to a reasonable range that can be achieved. The current lower AML has not been reached since 1971 (the passage of the Wild Free-Roaming Horses and Burros Act). Only 3 years since that time has the estimated population been below 25 head of wild horses

on the HMA. However, in 20 of the 41 years since the act has been passed the estimated population has been between 25-60 head of wild horses. It is reasonable to believe that the population on the Frisco HMA can be managed within this range. With the wild horse population within this AML forage and water resources within the HMA will be able to sustain healthy wild horses even during times of drought.

The gather is necessary to remove excess wild horses and to bring the wild horse population back to within the established AML range in order to achieve and maintain a thriving natural ecological balance between wild horses and other multiple uses as required under Section 1333(a) of the 1971 Wild Free Roaming Horses and Burros Act (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses to avoid degradation of public rangelands, and the removal of excess wild horses is necessary to protect rangeland resources from further deterioration or impacts associated with the current overpopulation of wild horses within the Frisco HMA. This action will help achieve, then maintain population size within the AML of 30-60 head, reduce the number of wild horses that need to be removed, and extend the time between gathers beyond this action.

The Proposed Action is in conformance with the BLM's *Pinyon Management Framework Plan (MFP)* approved June 10, 1983. This pilot management alternative will use a phased-in approach to reach AML over a six to ten year period by gradually removing excess animals, implementing fertility control, and adjusting sex ratios. Adoption of the Proposed Action will also result in placing fewer excess wild horses in short or long-term holding or in the adoption or sale pipelines over the next 10 year period as compared to the No Action Alternative.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy, nor will it comply with the Pinyon Management Framework Plan (MFP) approved June 10, 1983. The No Action Alternative will allow continued deterioration of rangeland resources, including vegetative, soil and riparian resources, and could potentially result in the irreversible loss of native vegetative communities. Wild horses will continue to relocate in increasing numbers to areas outside the HMA boundaries due to competition for limited water and forage within the HMA, adversely impacting public land resources not designated for wild horse management. The No Action Alternative also increases the likelihood of emergency conditions arising, leading to the death or suffering of individual animals or to an emergency gather in order to prevent suffering or death due to insufficient forage or water.

PUBLIC INVOLVEMENT

A preliminary environmental assessment was made available to the public when it was posted on the Utah BLM website at <http://www.ut.blm.gov/> and at the Utah BLM Environmental Notification Bulletin Board (ENBB) website at <https://www.blm.gov/ut/enbb/>. Hard copies were available from the Cedar City Field Office along with the above websites for a 30 day public review and comment period beginning on August 7, 2012 and ending September 5, 2012. Written comments were received from 12 individuals by mail or fax. E-mail comments and form letters were received from 4,275 individuals. Comments received after September 5, 2012 were not accepted. Many of these comments contained overlapping issues/concerns which were consolidated into 229 comments and 21 distinct topics. In appendix 11 of the Frisco Wild Horse HMAP and Gather Plan EA is a detailed summary of the comments received and how BLM used these comments in preparing the EA. The final Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan (EA) DOI-BLM-UT-C010-2012-0018-EA is available on the BLM's web site at <http://www.ut.blm.gov/>, or by contacting the Cedar City Field Office.

The Utah State Office initiated public involvement at a public hearing about the use of helicopters and motorized vehicles to capture and transport wild horses (or burros) on July 13, 2012 at the BLM's Fillmore Field Office in Fillmore, Utah. This specific gather was addressed at that public meeting as well

as other gathers that may occur within the state of Utah over approximately the next 12 months. This meeting was advertised in papers and radio stations statewide. The meeting was attended by 1 member of the public who submitted hers and another person's comments at the meeting. In addition the Utah State Office received one comment by e-mail on the "Use of Helicopters, Motorized Vehicles" approximately a week after the public hearing. All the comments submitted from the public were considered during the development of the alternatives within this document. The BLM reviewed its SOPs in response to the views and issues expressed at the hearing and determined that no changes to the SOPs were warranted. However, as most of the comments received are directed more toward the policies and regulations that are used to manage wild horses and burros the comments shared with the National Program Office for Wild Horse and Burros.

Additional public involvement includes the posting of this EA on July 1, 2010 on the Utah BLM ENBB. A preliminary EA was posted on the ENBB, BLM Utah home website and the links to this document was distributed e-mail to interested parties for a 30-day comment period.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-2 Objectives

The objectives of these regulations are management of wild horses and burros as an integral part of the natural system of the public lands under the principle of multiple use; protection of wild horses and burros from unauthorized capture, branding, harassment or death; and humane care and treatment of wild horses and burros.

§4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.3-1 Herd Management Areas

Herd management areas shall be established [through the land use planning process] for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately ...

§4740.1 Use of Motor Vehicles or Air-Craft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

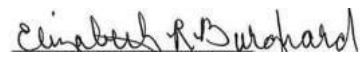
§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPROVAL

The Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan is approved for implementation 30 days from the date of my signature below.. This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c) because the action is necessary to preserve and maintain a thriving ecological balance and multiple use relationship. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CFR Part 4 (see attachment).


Elizabeth Burghard
Field Manager
Cedar City Field Office


Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for
Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan
Cedar City Field Office
DOI-BLM-UT-C010-2012-0018-EA

Based on the analysis of potential environmental impacts in the Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan DOI-BLM-UT-C010-2012-0018-EA, I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

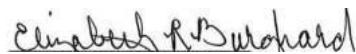
Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to portions of Beaver and Millard Counties (Utah), where the project area is located. The HMAP and gather has been planned with input from interested public and users of public lands.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

1. *Impacts that may be both beneficial and adverse.* The HMAP and gather plan is consistent with the Pinyon Management Framework Plan (MFP, 1983) and the standards for rangeland health, and will maintain a thriving natural ecological balance and multiple use relationship consistent with other resource needs as required under the WFRHBA. The HMAP outlines management and monitoring objectives that will benefit wild horse health through improved monitoring, habitat, and management actions. The adjustment to the AML will provide achievable population range that can be managed for within carrying capacity of the rangeland. Although the capture, treat, release (with adjusted sex ratio) and removal of excess wild horses is expected to have short-term impacts on individual animals, it is expected to benefit wild horse health by improving forage and habitat conditions in the HMA and will be beneficial for rangeland resources such as vegetative communities, riparian resources, and wildlife habitat.
2. The degree to which the proposed action affects public health or safety. The Standard Gather Operating Procedures (EA, Appendix 5 - 7) and Observation Protocol and Ground Rules (EA, Appendix 10) will be used to conduct the gather and are designed to ensure protection of human health and safety, as well as the health and safety of the wild horses and burros. The proposed action has no effect on public health or safety.
3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* The proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised through consultation or public comments.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Possible effects on the human environment are not highly uncertain and do not involve unique or unknown risks. The Proposed Action has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.
6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The action is compatible with future consideration of actions required to improve wild horse management in conjunction with meeting objectives for wildlife habitat within the herd management area. The Proposed Action does not set a precedent for future actions. Future actions will be subject to evaluation through the appropriate level of NEPA documentation
7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The proposed action is not related to other actions with individually insignificant but cumulatively significant impacts.
8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The proposed gather has no potential to adversely affect significant scientific, cultural, or historical resources.
9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The proposed action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.
10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The Proposed Action is in compliance with the Pinyon Management Framework Plan (MFP, 1983) and is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.



Elizabeth Burghard
Field Manager
Cedar City Field Office



Date

Attachment
Frisco Wild Horse Herd Management Area Plan (HMAP) and Gather Plan
Cedar City Field Office
DOI-BLM-UT-C010-2012-0018-EA
Decision Record

Appeal Procedures

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address:

Elizabeth Burghard, Field Manager
BLM, Cedar City Field Office
176 E. DL Sargent Drive
Cedar City, Utah 84720

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Interior Board of Land Appeals
Office of Hearing and Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the to the appropriate office of the Field Solicitor at the same time the original documents are filed with the above office:

Office of the Regional Solicitor
6201 Federal Building
125 South State Street
Salt Lake City, UT 84138-1180

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.